IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4105 OF 2006

Inder Raj Kapoor, Proprietor
Raj Enterprises .. Applicant

Versus

State of Maharashtra & Anr. .. Respondents

Mrs.P.C.Bhatia for applicant
Mr.Rajesh More, A.P.P. for State
Mr.Ashish Chavan for respondent No.2.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 23rd November 2006.

P.C.

. Applicant has instituted the present

application as he apprehends that pursuant to the non bailable warrant issued on 9th November 2006 in complaint C.C.No.694/SS/2006 by the Metropolitan Magistrate, Dadar, he would be arrested and detained in custody.

2. Petitioner is an accused in a complaint which is filed by the complainant alleging offences punishable under section 138 of N.I. Act.

3. On the relevant date, despite the applicant having executed a bond could not remain present and the learned Judge has proceeded to issue a non bailable warrant for his arrest. The Advocate was present but the applicant accused was absent.

4. Since the respondent No.2 complainant has appeared before me pursuant to notice and it is not seriously disputed that the applicant

original accused was absent but his Advocate was present on the relevant date, the impugned order is quashed and set aside. The order forfeiting the cash surety is also set aside. The cash surety now to enure to the benefit of the accused and continue till the case is disposed of.

5. However, it is clarified that this order does not mean that the trial court is precluded from passing appropriate orders in accordance with law to secure presence of the accused.

(S.C.Dharmadhikari, J)